



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Omar Howard,
Principal Investigator Parole and
Secured Facilities (PS2734I),
Department of Corrections

Administrative Appeal

CSC Docket No. 2022-63

ISSUED: AUGUST 6, 2021 (EG)

The Department of Corrections (DOC) requests that Omar Howard receive a retroactive permanent appointment date as a Principal Investigator Parole and Secured Facilities, effective January 4, 2020.

As background, the Principal Investigator Parole and Secured Facilities (PS2734I), DOC eligible list promulgated on December 29, 2016 and expired on December 28, 2019. The eligible list was certified 13 times and resulted in 11 appointments. The final certification was issued on October 29, 2019, and included the name of four eligibles, including Howard. Howard, a non-veteran, ranked number one on the certification. The certification was disposed of effective February 18, 2020, with no permanent appointments. In the instant matter, the DOC states that it was preparing to permanently appoint Howard when an incident occurred that resulted in disciplinary charges, thereby delaying and ultimately stopping his promotional appointment. DOC has since withdrawn those charges pursuant to a settlement agreement and would like to move forward with the promotion of Howard from the since expired PS2734I eligible list. The settlement agreement stipulated that the DOC would make a “good faith request” to the Civil Service Commission (Commission) to permit a retroactive permanent appointment for Howard from the Principal Investigator Parole and Secured Facilities (PS2734I), DOC eligible list with an effective date of January 4, 2020. The DOC adds that it understands that Howard would be subject to a current working test period.

CONCLUSION

N.J.S.A. 11A:4-6 and *N.J.A.C.* 4A:4-3.4 provide that an eligible list may be revived in order to implement a court order or decision of the Civil Service Commission in the event of a successful appeal instituted during the life of a list, to correct an administrative error, or for other good cause. Additionally, *N.J.A.C.* 4A:4-1.10(c) states that an individual may receive a retroactive date of appointment to correct an administrative error, for an administrative delay or for other good cause.

In the instant matter, good cause exists to revive the subject list for Howard to receive a retroactive date permanent appointment effective January 4, 2020. In this regard, a settlement was reached between the parties. The policy of the judicial system strongly favors settlement, and this policy is equally applicable in the administrative area. *See Nolan v. Lee Ho*, 120 *N.J.* 465 (1990); *Honeywell v. Bubb*, 130 *N.J. Super.* 130 (App. Div. 1974); *Jannarone v. W.T. Co.*, 65 *N.J. Super.* 472 (App. Div. 1961), *cert. denied*, 35 *N.J.* 61 (1961). Further, a review of the Principal Investigator Parole and Secured Facilities (PS2734I), DOC eligible list reveals that Howard's name would have been reachable for appointment on the subject certification as he was listed in the first position. *See N.J.A.C.* 4A:4-4.8(b)3. The Commission notes that it is preferable to make a permanent appointment from an eligible list instead of a provisional appointment. Accordingly, under these circumstances, Howard should receive retroactive date of appointment of January 4, 2020, for salary step placement and seniority-based purposes only, upon the successful completion of a current working test period in this title. It is noted that no back pay is being awarded.

ORDER

Therefore, it is ordered that personnel records be amended to indicate Omar Howard's permanent appointment to Principal Investigator Parole and Secured Facilities with an effective date of January 4, 2020, for salary step placement and seniority-based purposes only, upon the successful completion of a current working test period in this title.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 4TH DAY OF AUGUST, 2021

Deirdre' L. Webster Cobb

Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Allison Chris Myers
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: Omar Howard
Elizabeth L. Whitlock
Division of Agency Services
Records Center